

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:16-cv-00635-CRC**

GELLMAN v. DEPARTMENT OF HOMELAND SECURITY

et al

Assigned to: Judge Christopher R. Cooper

Cause: 05:552 Freedom of Information Act

Date Filed: 04/04/2016

Jury Demand: None

Nature of Suit: 895 Freedom of

Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

BARTON GELLMAN

represented by **Adam Alexander Marshall**
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FREEDOM OF THE PRESS
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V.

Defendant

**DEPARTMENT OF HOMELAND
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Defendant

DEPARTMENT OF JUSTICE

represented by

Brian J. Field
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Claire M. Whitaker
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**OFFICE OF THE DIRECTOR OF
 NATIONAL INTELLIGENCE**

represented by **Brian J. Field**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Claire M. Whitaker
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/04/2016	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-4471461) filed by BARTON GELLMAN. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Civil Cover Sheet, # <u>11</u> Summons to U.S. Attorney General, # <u>12</u> Summons to Department of Homeland Security, # <u>13</u> Summons to Department of Justice, # <u>14</u> Summons to Office of the Director of National Intelligence, # <u>15</u> Summons to U.S. Attorney)(Townsend, KatieLynn) (Entered: 04/04/2016)
04/04/2016		Case Assigned to Judge Christopher R. Cooper. (jd) (Entered: 04/05/2016)
04/05/2016	<u>2</u>	SUMMONS (5) Issued Electronically as to DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE, U.S. Attorney and U.S. Attorney General (Attachment: # <u>1</u> Consent Forms)(jd) (Entered: 04/05/2016)
04/15/2016	<u>3</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 4/11/2016. (Townsend, KatieLynn) (Entered: 04/15/2016)
04/15/2016	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/11/2016. Answer due for ALL FEDERAL DEFENDANTS by 5/11/2016. (Townsend, KatieLynn) (Entered: 04/15/2016)
04/15/2016	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF HOMELAND SECURITY served on 4/8/2016 (Townsend, KatieLynn) (Entered: 04/15/2016)
04/15/2016	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF JUSTICE served on 4/11/2016 (Townsend, KatieLynn) (Entered: 04/15/2016)
04/15/2016	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE served on 4/11/2016 (Townsend, KatieLynn) (Entered: 04/15/2016)
04/22/2016	<u>8</u>	NOTICE of Appearance by Claire M. Whitaker on behalf of DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Whitaker, Claire) (Entered: 04/22/2016)

05/09/2016	<u>9</u>	Consent MOTION for Extension of Time to File Answer (<i>to June 10, 2016</i>) by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Attachments: # <u>1</u> Text of Proposed Order)(Whitaker, Claire) (Entered: 05/09/2016)
05/10/2016	<u>10</u>	NOTICE of Appearance by Brian J. Field on behalf of All Defendants (Field, Brian) (Entered: 05/10/2016)
05/11/2016		MINUTE ORDER granting <u>9</u> Defendants' Consent Motion for Extension of Time to Answer: It is hereby ORDERED that Defendants shall have up to and including June 10, 2016 to file an answer or otherwise respond to the Complaint in this case. Signed by Judge Christopher R. Cooper on 5/11/2016. (lccrc3) (Entered: 05/11/2016)
05/12/2016		Set/Reset Deadlines: Defendants shall have up to and including 6/10/2016 to file an answer or otherwise respond to the Complaint. (kt) (Entered: 05/12/2016)
06/09/2016	<u>11</u>	Joint MOTION for Scheduling Order by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Attachments: # <u>1</u> Text of Proposed Order)(Field, Brian) (Entered: 06/09/2016)
06/09/2016	<u>12</u>	ORDER granting <u>11</u> Joint Motion for Scheduling Order. Signed by Judge Christopher R. Cooper on 6/9/2016. (lccrc3) (Entered: 06/09/2016)
06/21/2016	<u>13</u>	NOTICE of Appearance by Adam Alexander Marshall on behalf of BARTON GELLMAN (Marshall, Adam) (Entered: 06/21/2016)
09/21/2016	<u>14</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 09/21/2016)
11/21/2016	<u>15</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 11/21/2016)
01/23/2017	<u>16</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 01/23/2017)
03/22/2017	<u>17</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 03/22/2017)
05/22/2017	<u>18</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 05/22/2017)
07/24/2017	<u>19</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 07/24/2017)
09/22/2017	<u>20</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 09/22/2017)
11/21/2017	<u>21</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 11/21/2017)
01/19/2018	<u>22</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 01/19/2018)
03/20/2018	<u>23</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 03/20/2018)
05/16/2018	<u>24</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 05/16/2018)

05/17/2018	<u>25</u>	ORDER directing the parties to file a joint status report by June 4, 2018. See full Order for details. Signed by Judge Christopher R. Cooper on 5/17/2018. (lccrc3) (Entered: 05/17/2018)
05/17/2018		Set/Reset Deadlines: Joint Status Report due by 6/4/2018 (lsj) (Entered: 05/17/2018)
06/04/2018	<u>26</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 06/04/2018)
06/07/2018	<u>27</u>	ORDER re next status report and briefing schedule. Signed by Judge Christopher R. Cooper on 6/7/2018. (lccrc3) (Entered: 06/07/2018)
06/08/2018		Set/Reset Deadlines: Joint Status Report due by 6/29/2018 (lsj) (Entered: 06/08/2018)
06/29/2018	<u>28</u>	Joint STATUS REPORT by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE. (Field, Brian) (Entered: 06/29/2018)
07/26/2018	<u>29</u>	VACATED PURSUANT TO MINUTE ORDER ENTERED 9/11/2018.....Order setting summary judgment briefing schedule. See full Order for details. Signed by Judge Christopher R. Cooper on 7/26/2018. (lccrc3) Modified on 9/12/2018 (zlsj). (Entered: 07/26/2018)
07/26/2018		Set/Reset Deadlines: Summary Judgment motions due by 9/21/2018. Response to Motion for Summary Judgment due by 10/23/2018. Reply to Motion for Summary Judgment due by 12/7/2018. Plaintiff's Replies due by 12/21/2018. (lsj) (Entered: 07/26/2018)
09/11/2018	<u>30</u>	Consent MOTION for Briefing Schedule <i>Modification</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) (Entered: 09/11/2018)
09/11/2018		VACATED PURSUANT TO MINUTE ORDER ENTERED 10/17/2018.....MINUTE ORDER granting <u>30</u> Defendants' Motion to Modify Briefing Schedule and vacating the briefing schedule entered on 7/26/2018. The parties shall adhere to the briefing schedule as follows: Defendants' motion for summary judgment shall be due by October 23, 2018; Plaintiff's opposition and cross-motion for summary judgment shall be due by November 30, 2018; Defendants' reply and opposition shall be due by January 7, 2019; Plaintiff's reply shall be due by January 25, 2019. Signed by Judge Christopher R. Cooper on 09/11/2018. (lccrc3) Modified on 10/17/2018 (zlsj). (Entered: 09/11/2018)
09/12/2018		Set/Reset Deadlines: Summary Judgment motions due by 10/23/2018. Response to Motion for Summary Judgment due by 11/30/2018. Reply to Motion for Summary Judgment due by 1/7/2019. Replies due by 1/25/2019. (lsj) (Entered: 09/12/2018)
10/05/2018	<u>31</u>	NOTICE of Change of Address by KatieLynn Boyd Townsend (Townsend, KatieLynn) (Entered: 10/05/2018)
10/16/2018	<u>32</u>	Consent MOTION to Modify <i>Briefing Schedule by One Week</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) (Entered: 10/16/2018)
10/17/2018		VACATED PURSUANT TO MINUTE ORDER ENTERED 10/29/2018.....MINUTE ORDER granting Defendants' <u>32</u> Motion to Modify Briefing Schedule and vacating the briefing schedule entered on 9/11/2018. The parties shall adhere to a briefing schedule as follows: Defendants shall file their motion for summary judgment on or before October 30, 2018; Plaintiff shall file his opposition and cross-motion for summary judgment on or before December 7, 2018; Defendants shall file their reply and opposition on or before January 14, 2019; Plaintiff shall file his reply on or before February 1, 2019. Signed by Judge Christopher R. Cooper on 10/17/2018. (lccrc3) Modified on 10/30/2018 (zlsj). (Entered: 10/17/2018)
10/17/2018		Set/Reset Deadlines: Summary Judgment motions due by 10/30/2018. Response to Motion for Summary Judgment due by 12/7/2018. Reply to Motion for Summary Judgment due by 1/14/2019. Plaintiff's Reply due by 2/1/2019. (lsj) (Entered: 10/17/2018)

10/25/2018	<u>33</u>	Consent MOTION to Modify Briefing Schedule by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) Modified on 10/26/2018 to correct docket event (jf). (Entered: 10/25/2018)
10/29/2018		VACATED PURSUANT TO MINUTE ORDER ENTERED 11/29/18.....MINUTE ORDER granting <u>33</u> Motion to Modify Briefing Schedule and vacating the schedule entered on 10/17/2018. The parties shall adhere to a briefing schedule as follows: Defendants shall file their motion for summary judgment on or before November 30, 2018; Plaintiff shall file his opposition and cross-motion for summary judgment on or before January 7, 2019; Defendants shall file their reply and opposition on or before February 14, 2019; Plaintiff shall file his reply on or before March 1, 2019. Signed by Judge Christopher R. Cooper on 10/29/2018. (lccrc3) Modified on 11/30/2018 (zlsj). (Entered: 10/29/2018)
10/30/2018		Set/Reset Deadlines: Summary Judgment motions due by 10/30/2018. Response to Motion for Summary Judgment due by 1/7/2019. Reply to Motion for Summary Judgment due by 2/14/2019. Plaintiff's Reply due by 3/1/2019. (lsj) (Entered: 10/30/2018)
11/28/2018	<u>34</u>	Consent MOTION to Modify Briefing Schedule <i>Modification</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) Modified event on 11/29/2018 (ztd). (Entered: 11/28/2018)
11/29/2018		MINUTE ORDER granting <u>34</u> Defendants' Motion to Modify Briefing Schedule and vacating the briefing schedule entered on 10/29/2018. The parties shall adhere to the following briefing schedule: Defendants shall file their motion for summary judgment on or before January 30, 2019; Plaintiff shall file his opposition and cross-motion for summary judgment on or before March 7, 2019; Defendants shall file their reply and opposition on or before April 15, 2019; Plaintiff shall file his reply on or before May 3, 2019. Signed by Judge Christopher R. Cooper on 11/29/2018. (lccrc3) (Entered: 11/29/2018)
11/30/2018		Set/Reset Deadlines: Summary Judgment motions due by 1/30/2019. Response to Motion for Summary Judgment due by 3/7/2019. Reply to Motion for Summary Judgment due by 4/15/2019. Replies due by 5/3/2019. (lsj) (Entered: 11/30/2018)
01/29/2019	<u>35</u>	Unopposed MOTION for Briefing Schedule <i>Modification</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) (Entered: 01/29/2019)
01/30/2019		VACATED PURSUANT TO MINUTE ORDER ENTERED 4/2/19.....MINUTE ORDER granting <u>35</u> Motion for Briefing Schedule Modification and vacating the schedule entered on November 29, 2018. The parties shall adhere to the following briefing schedule: Defendants shall file their motion for summary judgment on or before April 1, 2019; Plaintiff shall file his opposition and cross-motion for summary judgment on or before May 14, 2019; Defendants shall file their reply and opposition on or before June 14, 2019; Plaintiff shall file his reply on or before July 15, 2019. Signed by Judge Christopher R. Cooper on 01/30/2019. (lccrc3) Modified on 4/2/2019 (zlsj). (Entered: 01/30/2019)
01/30/2019		Set/Reset Deadlines: Summary Judgment motions due by 4/1/2019. Response to Motion for Summary Judgment due by 5/14/2019. Reply to Motion for Summary Judgment due by 6/14/2019. Replies due by 7/15/2019. (znbn) (Entered: 01/30/2019)
04/01/2019	<u>36</u>	Consent MOTION to Modify <i>Briefing Schedule</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) (Entered: 04/01/2019)
04/02/2019		MINUTE ORDER granting <u>36</u> Motion for Briefing Schedule Modification and vacating the schedule entered on January 30, 2019. The parties shall adhere to the following briefing schedule: Defendants shall file their motion for summary judgment on or before April 3, 2019; Plaintiff shall file his opposition and cross-motion for summary judgment on or before May 16, 2019; Defendants shall file their reply and opposition on or before June 17, 2019; Plaintiff shall file his reply on or before July 17, 2019. Signed by Judge Christopher R. Cooper on 04/02/2019. (lccrc3) (Entered: 04/02/2019)

04/02/2019		Set/Reset Deadlines: Summary Judgment motions due by 4/3/2019. Response to Motion for Summary Judgment due by 5/16/2019. Reply to Motion for Summary Judgment due by 6/17/2019.Replies due by 7/17/2019. (lsj) (Entered: 04/02/2019)
04/03/2019	<u>37</u>	MOTION for Summary Judgment by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Exhibit Ex. A (Holzer Decl.), # <u>4</u> Exhibit Ex. B (Hardy Decl.), # <u>5</u> Exhibit Ex. C (Brinkmann Decl.), # <u>6</u> Exhibit Ex. D (Findlay Decl.), # <u>7</u> Exhibit Ex. E (Gaviria Decl.), # <u>8</u> Exhibit Ex. F (Henry Decl.), # <u>9</u> Exhibit Ex. G (Miller Decl.), # <u>10</u> Exhibit Ex. H (Brodfehrer Decl.), # <u>11</u> Exhibit Ex. I (Kiyosaki Decl.), # <u>12</u> Exhibit Ex. J (Howard Decl.), # <u>13</u> Text of Proposed Order)(Field, Brian) (Entered: 04/03/2019)
04/03/2019	<u>38</u>	MOTION for Leave to File <i>Declarations Under Seal and Ex Parte, In Camera</i> by DEPARTMENT OF HOMELAND SECURITY, DEPARTMENT OF JUSTICE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE (Field, Brian) (Entered: 04/03/2019)
04/04/2019		MINUTE ORDER granting <u>38</u> Motion for Leave to File Declarations Under Seal and <i>Ex Parte, In Camera</i> . The Court will reserve judgment on Plaintiff's request for public filing of redacted versions of the declarations until it has reviewed them and, if necessary, received briefing on the request. Signed by Judge Christopher R. Cooper on 04/04/2019. (lccrc3) (Entered: 04/04/2019)
04/08/2019		MINUTE ORDER: The Court has reviewed the <i>ex parte, in camera</i> , classified declarations submitted in support of Defendants' Motion for Summary Judgment. See ECF No. 38 and April 4, 2019 Minute Order. The D.C. Circuit has instructed that a court considering <i>in camera</i> declarations "should be certain to make the public record as complete as possible." <u>Lykins v. United States Dep't of Justice</u> , 725 F.2d 1455, 1465 (D.C. Cir. 1984). Upon review, the Court hereby ORDERS Defendants to file on the public docket a redacted, unclassified version of the declaration provided <i>in camera</i> by the Federal Bureau of Investigation. Defendants need not file a redacted version of the declaration provided <i>in camera</i> by the Office of the Director of National Intelligence. Signed by Judge Christopher R. Cooper on 04/08/2019. (lccrc3) (Entered: 04/08/2019)
05/02/2019	<u>39</u>	NOTICE by DEPARTMENT OF JUSTICE re Order,,, (Attachments: # <u>1</u> Declaration Redacted Decl. of D. Hardy)(Field, Brian) (Entered: 05/02/2019)